

FISCAL NOTE

HB 2122 - SB 2178

April 1, 2005

SUMMARY OF BILL: Revises the medical malpractice damage provisions to allow for an award being decreased reflecting costs paid or losses indemnified by the United States Social Security Act, any state or federal income disability or worker's compensation, or private insurance. Limits awarded damages for noneconomic losses to \$250,000 and authorizes the trial courts to order money judgments to be paid in whole or in periodic payments if equal to or exceeding \$75,000. Sets limitation ranges on the amount of attorney's fees that may be awarded. Adds that any health care professional ordered to testify on the defendant's deviation from the standard of care must be licensed in the same specialty as the defendant. Requires the plaintiff to file an affidavit and identify at least one negligent act or omission claimed and the factual basis for such claim. Authorizes that the prevailing party may be awarded damages to include attorney's fees and expenses of litigation if the opposing party presented a frivolous claim.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – If malpractice insurance premium rates are reduced, the TennCare program and the state health insurance plan could experience more moderate cost increases in the long term. If malpractice awards were decreased, some individuals in need of medical care could become eligible for TennCare.

Assumptions:

- The impact of medical malpractice award changes cannot be determined. Such changes may moderate the growth of malpractice insurance premium rates and savings to TennCare would depend upon the amount of savings passed on by providers.
- If awards were reduced, some persons with significant health care costs could spend down their income and become eligible for TennCare sooner than would otherwise occur. The number of such cases is estimated to not be significant.
- Claims for malpractice against the State fell under the exclusive jurisdiction of the Claims Commission Act which limits total damages to \$300,000. This bill would not result in a significant decrease in payments on state claims.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director